LB 432-92

P 9

G. R. S. 1X-5]

Previous references.

1892-93

191 .

(March)

File No. 26-92

Serial Nos. 1-2

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

M Part B for June 93

SUBJECT.

Regarding the protest of certain Municipal Commissioners in regard to holding a meeting

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W D 1250—GPB—30,000 28-1-19

Endorsed

Let me see the Act.

MP

576193

Read Letter from the President Bangalore City municipal B.P. submitting the protest signed by Mr. Sambasiviah and others against the meeting held on the 31st July 1893.

order thereon. Before deciding the ~~point~~ legal + other questions raised in the above communication Govt request to be furnished with information on the following points

(1) whether a vote was taken on the motion of Mr Sambasiviah - has been + if so the the number + names of members who took part in the voting

(2) whether ~~a fresh vote~~ the decision of the President to proceed with business was given before or after the arrival of Doctors Nepean and Chokshi

(3) whether a fresh vote was taken after the arrival of the latter gentlemen.

Submd.

1893
14212

From
The President
City Munpl. Corpn.

To
The Chief Secretary
to the Govt of Mysore

Dated
Despd 1st June 93
Rec 3/6
No 291 Encl

Submitting the Pro-
-test signed by Mr
Sambasiva Iyar and
others against the meeting
held on the 31st May 93.

Dbs. Mrn
2/6

Rec June 2 1893 96/1893
A 4324

No 291
E-2

City Municipal Office
Bangalore
Dated 1st June 1893.

From

The President
City Municipal Council

The Chief Secretary
to the Government of Mysore

Sir

In submitting herewith the protest signed by Mr. Srinivasa Iyer and others, I have the honor to state that there were 16 present when I wanted to ascertain the sense of the meeting. The Vice President declined to vote as he thought that the objection was tantamount to a censure on the arrangement made by him. Eight were for not transacting business and 7 for transacting it. In the meantime it was represented by

Mr. Sambasiva Iyer, the mover of the objection that the question was under discussion, was not one for a division and that it was a question of order which the President had power to decide as Mr. Venkatasamy Naidu still thinks and says in this letter. While the matter proceeded so far, Dr. Chokai came in and soon after Dr. McGann who were of course for transacting the business. So it was not true that majority was for not transacting businesses. I agreed with Mr. Sambasiva Iyer that the question was of order which I had power to decide and I decided it. It was after the arrival of Dr. Chokai and Dr. McGann. There were 8 against 8 for transacting business. Even if the member was in minority that could not affect my decision which was based upon my reading of the Regulation. It is to be noted that at 2 of the 7 gentlemen who retired after my decision have not signed this

letter. I am very sorry that the gentle-
-men who differed did not think
it due to the opinion of the members
like Dr. Mc Gann and Mr. Leonard
who have sat on the Board for
years that such opinion deserved
Calmer Consideration than what
was suggested by the impulse of
the moment. I have great respect
for the opinion of the gentlemen
like Messrs Sambasiva Iyar and
Venkatasamy Naidu and others.
I can only say that I am surprised
that they did not give to the
question the sober and calm judg-
-ment which my experience and
the connection with the Municci-
-pality naturally led me to in
expect of them.

I have the honor to be
Sir
Your most obdt Servant
[signature]
for President

Order

The Vice President published a notice in the Mysore Gazette on the 18th May that there would be a meeting of the Board on the 25th Idem and with it he published a list of the subjects. On the 19 he published another notice to the effect that the meeting would be held not on the 25th but on the 31st Idem. The latter notice was circulated to the members, but there was no issue of the Gazette on the 19th May and the Gazette appeared on the 20 May 93. The notice was, however, published in the local newspapers on the 25th.

Section 18 of the Regulation says that "notice of the business to be transacted at such meetings (Ordinary monthly meetings) shall be published in the Mysore Gazette and in one or more of the local

English and Vernacular news papers respectively, published in Bangalore at least 7 days before the meeting. Section 21 prescribes that "no business shall be brought before or transacted at any meeting other than the business specified in the notices given under sections 18 and 20 (Section 20 is not in point) It is objected that seven days notice was not given in the Mysore Gazette and therefore, the meeting is not competent to transact business. I overrule the objection. In the first place from the 25th to the 31st both days inclusive is 7 days. Further as the Government has recently in interpreting section 5 observed the Regulation was not drafted by professional draftsmen in a Regulation deficient in drafting it is not so much to the letter as to the spirit we have to look in interpreting the law. What could

(2)

the the object of the Legislature: it is manifestly to give sufficient notice to the members so that they may prepare themselves and arrange to attend the meeting. In the present case the notice was published in the local papers more than 7 days previously, it was circulated among the members and if it was not seven days in the Gazette before the meeting it only fell short of that time by a few hours. In the result the manifest intention of the Legislature is even more clearly fulfilled as the meeting is attended by an unusually large number 18 out of 22 members. It is attended by the members now objecting: surely in their case want of notice cannot be urged. It is attended by Government servants and private gentlemen men of business who put off their other work for the sake of the meeting

if no business should be transacted
no other meeting could be held ... for
about 10 days and such would involve
as more obvious infringement of
the very section 18, which prescribes
a meeting on every month, to wit
being the last day of the month
and no other meeting having been
held during the month I beliew
fulfil the intentions of the law
by proceeding with the business
than by omitting to do it.

Sd/ Mir Shujaat Ali Khan
President

31 May 93

Copy
K Srinivasa Rao
Vice President

Dlg No 1771
1/6

To

The President,

City Municipal Board.

Bangalore

Sir

With regard to the Proceedings of the Board held this morning we, the undersigned, question the legality of the further proceedings conducted by you as we left, for the following reasons:-

That when the majority of the Commissioners present and voting decided that no business could be transacted for want of notice as prescribed the Municipal Regulations, the duties of the Majority was ignored by your commencing the business after such resolution.-

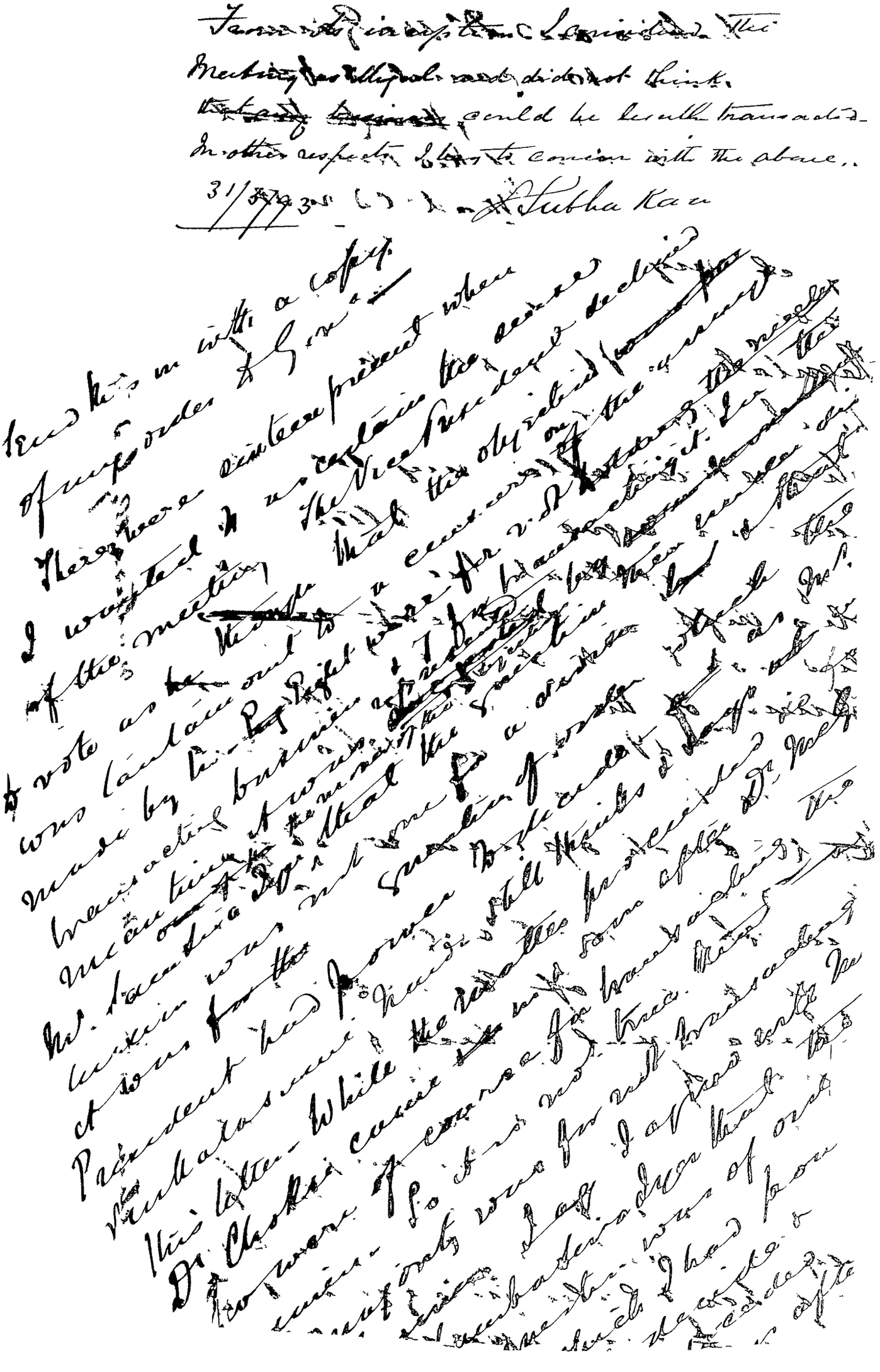
That seven of the four

at left, left with your permission as they could not take part in the proceedings which the majority of the Board resolved to be illegal

We request you will be good enough to submit this, our humble protest, to Government along with your proceedings

We beg to remain
Sir
Your most obedt Servants
C. Sundaresa
D Venkatramaya
B Ramaiya

I sign this protest with the further remark that if a meeting of any sort could have been held this morning and the attempt to hold a meeting by means of votes were to be made, no inspection could be placed to the Commissioners who had no Meeting



J. B. Clarke and Dr. McGavin
There were 10 of us and [illegible]
transacting business, [illegible]
[illegible] Even if the number
was a minority that did not
affect any decision which was
taken upon this occasion. It is stated
that Mr. [illegible] and
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

Print of the whole letter with enclosures &c.

Read letter from the President Bangalore city municipality dt 18th June 1893 forwarding with his remarks a protest signed by sundry municipal comrs against the legality of the municipal meeting held on the 31st May 1893.

20560

Order thereon

Government

Consider that the President erred in allowing the meeting to proceed with the business of the day in spite of the objection raised. The law requires that notice of the business to be transacted at an ordinary meeting shall be published in the Mysore Gazette at least 7 days before the meeting and in directing this publication the Olyees of the Legislature was probably not only to give due

notice to the
of the municipality,
also to the ratepayers
so that they might
time to communicate
with their representatio
on the Board. It
cannot therefore be
argued that the objec
of the Regulation was
fulfilled by the
individual notices
given to the members
more than seven day
prior to the meeting.

2. The question having
been put to the vote
and the majority of the
members present whe
the vote was taken
having voted agains
the legality of the
meeting, the Presiden
should not have
proceeded with the
business of the day
Govt. however note
that the question

was certainly not one that could be settled by the votes of members as even if the majority of the members had voted in favour of the view taken by the President, the business transacted at the meeting might be held by a Court of law to be illegal and as such, void.

3. The view taken by the President that inclusive of the date of publication and the date of meeting there were seven days & that consequently there was no violation of the law, is incorrect. The publication ought to be made clear 7 days before the date fixed for the meeting

4. It is however a matter for regret that the members who took the right view of the law

formal protest ag
the Presidents decision
but left the meeting
a body.

wi
het
and the
wi the
~~with thinking~~
~~secretaries~~ - Govt
however trust that
such scenes will not
occur in the future
& that the whole body
of Commissioners will
Cooperate heartily in
Carefully administering
the municipal revenue
with which they are
entrusted for the
benefit & well-being
of the townspeople

J.P.
5/6/93.

To the President
Bangalore city Mnf

R 2766

21424 / L7.432-92 — 26 / 27/6/93

Memo
Copy to the President
City Mnf

or more of the local English and Vernacular newspapers respectively, published in Bangalore, at least 7 days before the meeting". Section 21 prescribes that "no business shall be brought before or transacted at any meeting other than the business specified in the notices given under Sections 18 and 20 (Section 20 is not in point)". It is objected that seven days' notice was not given in the Mysore Gazette and therefore the meeting is not competent to transact business. I overrule the objection. In the first place from the 25th to the 31st both days inclusive is 7 days. Further as the Government has recently in interpreting Section 5 observed the Regulation was not drafted by professional draftsmen, in a Regulation deficient in drafting it is not so much to the letter as to the spirit we have to look to in interpreting the law. What could be the object of the Legislative? it is manifestly to give sufficient notice to the members, so that they may prepare themselves and arrange to attend the meeting. In the present case, the notice was published in the local papers more than 7 days previously, it was circulated among the members and if it was not seven days in the Mysore Gazette before the meeting, it only fell short of that time by a few hours. In the result the manifest intention of the Legislature is even more clearly fulfilled as the meeting is attended by an unusually large number 18 out of 22 members. It is attended by the members now objecting surely in their case want of notice cannot be urged. It is attended by Government servants and private gentlemen, men of business who put off their other work for the sake of the meeting. If no business should be transacted, no other meeting could be held for about 10 days, and it would involve a more obvious infringement of the very Section 18, which prescribes a meeting in every month, to-day being the last day of the month and no other meeting having been held during the month, I believe fulfil the intentions of the law by proceeding with the business, than by omitting to do it.

MIR SHUJAET ALI KHAN,

31*st May* 1893. *President.*

No. 20560—L. F. 432-92, DATED, BANGALORE, 5TH JUNE 1893.

ORDER THEREON.—Government consider that the President erred in allowing the meeting to proceed with the business of the day, in spite of the objection raised. The law requires that notice of the business to be transacted at an ordinary meeting, shall be published in the Mysore Gazette at least 7 days before the meeting, and in directing this publication, the object of the Legislature was probably not only to give due notice to the members of the Municipality, but also to the rate-payers, so that they might have time to communicate with their representatives on the Board. It cannot therefore be argued that the object of the Regulation was fulfilled by the individual notices given to the members more than seven days prior to the meeting.

2. The question having been put to the vote, and the majority of the members present, when the vote was taken, having voted against the legality of the meeting, the President should not have proceeded with the business of the day. Government however note that the question raised was certainly not one that could be settled by the votes of members, as, even if the majority of the members had voted in favor of the view taken by the President, the business transacted at the meeting might be held by a court of law to be illegal, and, as such, void.

3. The view taken by the President, that, inclusive of the date of publication and the date of meeting, there were seven days, and that consequently there was no violation of the law, is incorrect. The publication ought to be made clear seven days *before* the date fixed for the meeting.

4. It is, however, a matter for regret, that the members who took the right view of the law, did not content themselves with a formal protest against the President's decision, but left the meeting in a body. Government however trust that such scenes will not recur in the future, and that the whole body of Commissioners will co-operate heartily in carefully administering the Municipal revenues, with which they are entrusted, for the benefit and well-being of the townspeople.

T. ANANDA ROW,

Chief Secretary.

To—The President of the Bangalore City Municipality.

Exd.—K.S

Proceedings of the Government of His Highness the Maharaja of Mysore, (Local Boards Branch — Municipal),—dated 5th June 1893.

READ THE FOLLOWING PAPERS —

Letter No. 291, dated 1st June 1893, from the President, City Municipal Commission, Bangalore, to the Chief Secretary to the Government of Mysore.

In submitting herewith, the protest signed by Mr Sambasiva Iyer and others, I have the honor to state that there were 16 present when I wanted to ascertain the sense of the meeting. The Vice President declined to vote as he thought that the objection was tantamount to a censure on the arrangement made by him Eight were for not transacting business and 7, for transacting it. In the meantime it was represented by Mr. Sambasiva Iyer, the mover of the objection, that the question then under discussion was not one for a division and that it was a question of order which the President had power to decide as Mr Venkatasami Naidu still thinks and says in this letter. While the matter proceeded so far, Dr. Choksi came in and soon after Dr. McGann, who were of course for transacting the business. So it is not true that majority was for not transacting business I agreed with Mr. Sambasiva Iyer, that the question was of order which I had power to decide and I decided it. It was after the arrival of Dr Choksi and Dr McGann. There were 10 against 8 for transacting business. Even if the number was a minority, that could not affect my decision which was based upon my reading of the Regulation. It is to be noted that 2 of the 7 gentlemen who retired after my decision have not signed this letter. I am very sorry that the gentlemen who differed did not think it due to the opinion of the members like Dr. McGann and Mr. Leonard who have sat on the Board for years that such opinion deserved calmer consideration than what was suggested by the impulse of the moment. I have great respect for the opinion of gentlemen like Messrs. Simbasiva Iyer and Venkatasami Naidu and others. I can only say that I am surprised that they did not give to the question the sober and calm judgment, which my experience and the connection with the Municipality naturally led me to expect of them.

---

2. Letter dated 31st May 1893 to the President City Municipal Board Bangalore.

With regard to the Proceedings of the Board held this morning, we, the undersigned, question the legality of the further proceedings conducted by you after we left, for the following reasons —

That when the majority of the Commissioners present and voting decided that no business could be transacted for want of notice as prescribed in the Municipal Regulations, the resolution of the majority was ignored by your commencing the business after such resolution.

That seven of the Commissioners that left left with your permission as they could not take part in the proceedings which the majority of the Board resolved to be illegal.

We request you will be good enough to submit this, our humble protest to Government along with your proceedings.

V. SAMBASIVA IYER.

D VENKATARAMAIYA

H. RAMAIYA

I sign this protest with the further remark that no meeting of any sort could have been held this morning and the attempt to create a meeting by means of votes was itself irregular, as no Proposition could be placed before the Commissioners who formed no meeting.

31st May 1893 T. R VENKATASAMI.

From its inception I considered the meeting as illegal and did not think that any business could be legally transacted In other respects I beg to concur with the above.

31st May 1893. S SUBBA RAO.

Order

The Vice-President published a notice in the Mysore Gazette on the 18th May that there would be a meeting of the Board on the 25th idem and with it he published a list of the subjects On the 19th he published another notice to the effect that the meeting would be held not on the 25th but on the 31st idem. The latter notice was circulated to the members, but there was no issue of the Gazette on the 19th May and the Gazette appeared on the 25th May 1893. The notice was, however, published in the local newspapers on the 25th.

Section 18 of the Regulation says that "Notice of the business to be transacted at such meetings (Ordinary monthly meetings) shall be published in the Mysore Gazette and in one

1893.

GOVERNMENT OF MYSORE

LOCAL BOARDS BRANCH—MUNICIPAL.

PROCEEDING

Dated 5th June 1893.

No. 20560.
L. F. 432-92.

Passing orders on the communication of the President of the Bangalore City Municipality regarding the protest of certain Municipal Commissioners in regard to holding a meeting without giving 7 days' notice.

Mysore Govt. C. Press, Bangalore.—21-6-93—120.